

Remarks/Arguments:

These remarks are responsive to the Office Action of July 24, 2008. Applicants note with appreciation that the rejections of claims 1-6, 8-11, 13-20, 22 and 24 under 35 USC Section 102(e); claims 1, 2, 5, and 6 under 35 USC Section 102(b); and claims 1-25 under 35 USC 103(a) have been withdrawn. Currently all pending claims (1-25) stand rejected under 35 USC Section 112 as indefinite. Claim 10 stands rejected under 35 USC Section 112 for failing to comply with the written description requirement. Claims 1, 2, 10, 13, and 14-16 stand rejected under 35 USC 102(b) as anticipated by Pramanik. Applicants respectfully traverse these rejections for the reasons discussed below.

The Office Action objects to the terms selected by Applicants to describe the invention (OA, paragraphs 11-15). Claim 1 has been amended to clarify that the construct comprises a "particle." Claims 2-25 depend from claim 1. Applicants therefore request that the rejection of claims 1-25 for indefiniteness be withdrawn.

Claim 10 stands rejected as failing to comply with the written description requirement of Section 112. Claim 10 has been amended to remove the term "derivatives," as derivatives of the listed functional groups would also be encompassed by those functional groups. Therefore, Applicants respectfully request that the rejection of claim 10 for insufficient written description be withdrawn.

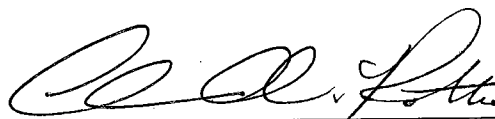
Claims 1, 2, 10, 13, and 14-16 stand rejected under 35 USC 102(b) as anticipated by Pramanik. Claim 1 is directed to a particle comprising a chemical functional group and coated with a monomolecular layer comprising biological information, that is dispersed within a polymeric matrix at a density of at least 0.01 vol %. Examples of "biological information" are listed in the specification as "genes, proteins, growth factors, and other bio-functional moieties," (page 4, lines 10-11). The meaning of "biological information" is given on page 11, lines 5-8: "The term 'biological information' as used herein means the information carried by a monomolecular layer of the nanoparticle to a cell or a tissue which is capable of affecting at least one characteristic of the cell or the tissue such as, for example, proliferation and differentiation." A non-limiting list of examples of such "biological information" is then listed from lines 8-18.

"To anticipate a claim, the reference must teach every element of the claim." MPEP Section 2131. Pramanik discloses a method for the preparation of nanoparticles of metals and metal oxides having a diameter of 10-90 nm. After preparation, the metallic nanoparticles are dispersed within a polymeric matrix. Pramanik fails to disclose that the nanoparticles are dispersed within the matrix at a density of at least 0.01 vol % or that the nanoparticles are coated with a monomolecular layer comprising biological information. No mention is made of any sort of "coating" on the nanoparticles described by Pramanik. In addition, Pramanik fails to disclose particles of less than 10 nm diameter. Because Pramanik lacks these elements of claim 1, it cannot anticipate claim 1, or claims 2, 10, 13, 14-16 that depend from claim 1. Therefore, Applicants request that the 102(b) rejection of claims 1, 2, 10, 13, and 14-16 be withdrawn.

Conclusion

For these reasons, it is respectfully submitted that the claims are in condition for immediate allowance and a notice to this effect is solicited. The Examiner is invited to phone applicants' attorney if it is believed that a telephonic interview would expedite prosecution of the application.

Respectfully submitted,



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